

### REMARKS/ARGUMENTS

Claims 1-4, 11- 26, 28, 29, 33, 34, 38, 39, 42 and 43 are pending in the present application, of which claims 1, 4, 13, 17, 19, 23, 25, 26, 42 and 43 are the independent claims. Applicants believe that the present application is in condition for allowance, for which prompt and favorable action is respectfully requested.

#### *Claim Rejections – 35 USC § 102*

Claims 1-4, 13-15, 17, 19-21, 23, 25, 26, 28, 29, 33, 34, 38 and 39<sup>1</sup> were rejected under 35 U.S.C. § 102(b) as being anticipated by Tiedemann (U.S. 6,396,867). Reconsideration and withdrawal of this rejection are respectfully requested.

Independent claims 1, 13, 19, 25 and 42 each include the feature of receiving the forward link power control instruction on a forward link common channel. A forward link common channel is understood to refer to a channel that is shared by different users (mobile stations), and thus is common to the different users. See, e.g., paragraph [1033] and [1032] of the specification. Tiedemann is not seen to teach or suggest at least the feature of receiving a forward link power control instruction on a forward link common channel.

In the Office Action, the Examiner contended that the term “common channel” is used to describe a channel in which control bits are sent and processed on the forward link channel of the remote station to control the power of the remote station. See page 2 of the Office Action dated November 13, 2009. Applicant respectfully disagrees. As understood by one skilled in the art, the term “common channel” refers to a channel that is shared by different users. While a “common channel” may or may not carry control bits, the descriptive term “common” describes the “channel” as being a channel shared by different user. See, e.g., paragraph [1033] and [1032] of the specification.

In the Office Action, the Examiner cited col. 7, lines 45-52 of Tiedemann as allegedly disclosing a “common channel.” Applicant respectfully disagrees. In col. 7, lines 45-52, Tiedemann discloses a forward link power control mechanism in which the transmission power of a base station is controlled based on reverse link power control bits received at a remote

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<sup>1</sup> Applicant assumes that the Examiner meant to include claims 42 and 43 in the § 102 rejection since the Examiner addressed these claims in the discussion of the § 102 rejection on page 8 of the Office Action.

station. However, nowhere in the cited portion does Tiedemann disclose a "common channel," i.e., a channel that is shared by different users.

Therefore, Tiedemann is not seen to teach or suggest at least the feature of receiving a forward link power control instruction on a forward link common channel, as recited in claims 1, 13, 19, 25 and 42.

Accordingly, claims 1, 13, 19, 25 and 42 are believed to be allowable over the applied references for at least the reasons given above. Claims 2, 3, 14, 15, 20, 21, 28, 33 and 38 depend from claims 1, 13, or 19, and are therefore believed to also be allowable for at least the same reasons given above. Because each dependent claim is deemed to define an additional aspect of the invention, the individual consideration of each on its own merits is respectfully requested.

Independent claims 4, 17, 23, 26 and 43 each include the feature of transmitting the forward link power control instruction on a forward link common channel.

Tiedemann is not seen to teach or suggest at least the feature of transmitting the forward link power control instruction on a forward link common channel. Tiedemann does not teach or suggest this feature for similar reasons given above for claims 1, 13, 19, 25 and 42.

Accordingly, claims 4, 17, 23, 26 and 43 are believed to be allowable for at least the reasons given above. Claims 29, 34 and 39 depend from claims 4, 17, 23, 26 or 43, and are therefore believed to also be allowable for at least the same reasons given above. Because each dependent claim is deemed to define an additional aspect of the invention, the individual consideration of each on its own merits is respectfully requested.

#### ***Claim Rejections – 35 USC § 103***

Claims 11, 12, 16, 18, 22 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tiedemann in view of Sawahashi (U.S. 5,590,409). Reconsideration and withdrawal of these rejections are respectfully requested.

In Applicant's previous response, Applicant disqualified the Tiedemann reference as prior art under 35 USC § 103(c) for use in a 35 USC § 103 rejection. For the Examiner's convenience, Applicant repeats arguments presented in the previous response for disqualifying the Tiedemann reference under 35 USC § 103(c) below.

According to 35 USC § 103(c):

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of

this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

In the present case, the Tiedmann reference issued as a patent on May 28, 2002, and was therefore published after the February 12, 2001 filing date of the present application. Because the Tiedmann reference published after the filing date of the present application, the Tiedmann reference could only qualify as a prior art reference under 35 USC § 102(e). Further, Applicant submits that the subject matter of the Tiedmann reference and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. Therefore, Applicant submits that the Tiedmann reference does not qualify as prior art under 35 USC § 103(c). See, e.g., MPEP 2146. Because the Tiedmann reference does not qualify as prior art, Applicant respectfully requests that the § 103 rejection of claims 11, 12, 16, 18, 22 and 24 be withdrawn.

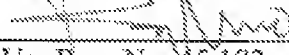
### CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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